

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

*Montgomery County Board of County
Commissioners & the State of Ohio Ex. Rel.
Mathias H. Heck, Jr., Prosecuting Attorney v.
Cardinal Health, Inc. et al.,*
Case No. 1:18-op-46326-DAP

MDL No. 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

**PHARMACY DEFENDANTS' MOTION TO DISMISS
SUPPLEMENTAL COMPLAINT**

Pharmacy Defendants¹ move to dismiss with prejudice the Supplemental and Amended Complaint, Doc. 3738, to the extent that it purports to state a common law claim for public nuisance. For the reasons stated in the accompanying memorandum of law, Plaintiffs lack standing to bring their claims and otherwise fail to state a claim upon which relief can be

¹ Walgreens Boots Alliance, Inc.; and Walgreen Co.; CVS Health Corporation; CVS Indiana, L.L.C.; CVS Rx Services, Inc.; CVS TN Distribution, LLC; CVS Pharmacy, Inc.; Ohio CVS Stores, LLC; and Oakwood CVS, Inc.; The Kroger Co.; Kroger Limited Partnership I; and Kroger Limited Partnership II; Rite Aid Corp.; Rite Aid Hdqtrs. Corp.; Rite Aid of Ohio, Inc.; and Rite Aid of Maryland, Inc. d/b/a Rite Aid Mid-Atlantic Customer Support Center; Walmart Inc., f/k/a Wal-Mart Stores, Inc.; Wal-Mart Stores East, LP; Wal-Mart Stores East, LLC f/k/a Wal-Mart Stores East, Inc.; WSE Management, LLC; WSE Investment LLC; Sam's East, Inc.; and Sam's West, Inc.

Pursuant to the proposed case management order, Plaintiffs and Defendants have agreed that, following a meet-and-confer process, jurisdictional motions to dismiss, if necessary, will be filed by August 13, 2021. Defendants file this motion without waiver of and expressly reserving the right to make any such arguments.

Pursuant to Rule 12(a)(1)(A)(ii) and by agreement of the parties, Meijer will file any motion to dismiss or joinder (other than on jurisdictional grounds) by August 6, 2021, which is the date set for Meijer's response under the Rule 4 Waiver of Service.

granted. This Motion only addresses the public nuisance claims; arguments addressing other causes of action will be briefed at a later time and are expressly preserved.

Dated: June 18, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the foregoing document was served via the Court's ECF system to all counsel of record on June 18, 2021.

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